Consideration of Hearing Officer Report in Preparation for Advisory Council Summarizing Public Meetings and Making Recommendations to the Natural Resources Commission Regarding Request by Indianapolis Power & Light Company for a Water Sale Contract Under IC 14-25-2 and 312 IAC 6.3; Administrative Cause No. 09-100V

# State of Indiana Department of Natural Resources Division of Water

**Department Memorandum** 

Date: June 1, 2009

To: Natural Resources Advisory Council

From: Hearing Officers

<u>Subject</u>: Summary of Public Meetings held for contract application MWS- 09-3 between Indianapolis Power & Light Company and the State of Indiana for a reservation of water from Monroe Lake for the purpose of periodic release to augment low flow in the White River.

The State of Indiana is authorized under Indiana Code 14-25-2 to sell water on a unit pricing basis for water supply purposes or low-flow augmentation from the water supply storage in reservoir impoundments, or portions of the impoundments that are financed by the State. The Department of Natural Resources, Division of Water, acts as administrator for these contracts. The provisions of IC14-25-2 and Rule 312 IAC 6.3 require that a written application to request a contract be submitted to the Division, and that public meetings be held to gather testimony on the request. The Division director shall appoint a Department employee to serve as hearing officer for the meetings. No longer than thirty (30) days after a public meeting is held, the Advisory Council shall submit to the Commission a report summarizing the public meeting.

#### **Contract Request Summary**

Indianapolis Power & Light Company held a contract with the State of Indiana for a reservation of water from Monroe Lake since 1980, which expired in 2005. Indianapolis Power & Light Company (IPL) desires to enter a new contract for a twenty (20) year term. The contract would allow for periodic low flow augmentation in White River, by means of release of water from Monroe Lake for use in cooling at the Petersburg Generating Station, 6925 North State Road 57 Petersburg, IN 47567; located on the White River. IPL is requesting a contract for the reservation of 1,000 acre feet. This volume is equal to a maximum daily release of 23.27 million gallons per day (MGD) for fourteen (14) days at the set maximum rate of 36 cubic feet per second (cfs). Releases may occur at less than the maximum rate of 36 cfs. The contract with IPL would generate revenue of \$10,755 per year, at the legislatively set price of thirty-three dollars (\$33) per million gallons. IPL would pay for the reservation amount whether or not there is a release. It should be noted that there has been a single release in the history of IPL's former contract, which occurred in 1999.

In accordance with Rule 312 IAC 6.3-3-1, a written request submitted to the Division of Water must include the following information:

- 1) Contract Applicant: Indianapolis Power & Light Company
- 2) **Proposed Use**: Reservation of Water for periodic low flow augmentation of White River to be used for plant cooling water at IPL's electric generating plant near Petersburg, IN.
- 3) Location of Withdrawal or Release: Water will be released from Monroe Lake into Salt Creek at the outlet works below the dam, to flow into White River
- 4) Proposed Term: Twenty (20) years
- 5) Requested Amount: Reservation of 1,000 acre feet (325.9 million gallons); to be released at a maximum rate of 36 cubic feet per second or 23.27 million gallons per day, for 14 days. Additional releases will not be made after the annual allotment of 1,000 acre feet without further agreement between the State and IPL.
- 6) Measurement: United States Army Corps of Engineers controls releases and release rates for Monroe Lake.
- 7) Summary of Alternatives and Justification: White River is the only feasible water supply available to IPL. Monroe Lake feeds to the White River via Salt Creek, and is the only water supply in proximity to IPL's Petersburg Generating Station.
- 8) Contingency Plan: If the required release is restricted due to drought alerts or other emergency, IPL may de-rate or shut down (reduce available electric power) the electrical generating units at its Petersburg Generating Station
- 9) Conservation Plan: During periods of drought or other emergency IPL may utilize the Unit 2 cooling tower at the Petersburg Generating Station and/or de-rate the units (reduce available electrical power) if necessary.

### Monroe Lake Available Water Supply Storage:

Total water supply storage in Monroe Lake is between elevations 515 and 538 feet, National Geodetic Vertical Datum, 1929 adjustment, measured at the dam. The State of Indiana has the right to 100% of this water supply storage, an amount estimated to be 160,000 acre feet, for the purposes of water supply and

low-flow regulation. Yield from this volume of water supply storage is estimated to be122 million gallons a day (MGD). The sum of annual limits of all current water supply contracts for withdrawal or release from Monroe Lake is currently 17.0% of the available water supply volume. The addition of this pending request would bring the total committed annual contractual limits to just under 18.0% of the available volume in the lake.

#### **Public Meetings Summary and Public Comment**

Public meetings were conducted by Division of Water personnel Mark Basch and Monique Riggs to gather testimony on the application for Contract Number MWS-09-3 between Indianapolis Power & Light Company and the State of Indiana. The meetings took place in the following two (2) counties, as required by IC 14-25-2-2.5 (h) and 312 IAC 6.3-3-3:

- May 21, 2009- Monroe County, Bloomington, IN; and
- May 21, 2009 Brown County, Nashville, IN.

A brief presentation was prepared outlining the provisions of IC 14-25-2 and Rule 312 IAC 6.3 which govern the Department's authority to enter into water supply contracts. Available water supply data was provided for Monroe Lake as well as established water supply priorities, the nature of the pending request and the application specifics, factors the Natural Resources Commission may consider during review and acting upon a request, and the process by which the Commission makes a determination to deny, condition, or approve a contract. The presentation was followed by a period to answer questions and gather public comment on the pending request.

Public participation at the two meetings consisted of a total twenty-eight (28) persons: The sign-in sheets provided at the meetings indicated ten (10) persons in support of the contract application, seven (7) persons against, five (5) with no opinion, and six (6) that did not indicate a position.

Participation at each meeting included representation from Indianapolis Power & Light Company: Mark Flint, Manager of Governmental Affairs and Employee Relations; Fred Mills, Director of Governmental Affairs; Dwayne Burke, Director of Environmental Affairs; and Jeff Harter, Plant Leader at the Petersburg facility. Written testimony provided at the meeting and attached to this document include a letter of support submitted by Dwayne Burke from Indianapolis Power & Light, a letter of opposition submitted by Jerry Pittsford from the Monroe County Planning Commission, and a statement of Monroe Lake discharge information provided by Dave Cable of the United States Army Corps of Engineers, Louisville District. In addition, the verbal public testimony that was gathered at the Monroe County meeting, and is attached to this document. No verbal public testimony was gathered at the Brown County Meeting.

### **Conclusions and Recommendations:**

The twenty (20) year contract term and annual reservation of one thousand acre feet (325.9 million gallons) allows Indianapolis Power & Light a contingency plan in case of low flow in the White River, the current supply of cooling water for the Petersburg generating plant. Division of Water staff believe that the volume of water available from Monroe Lake is adequate to satisfy release of the requested reservation of 23.27 million gallons a day (MGD) for fourteen (14) days for the twenty (20) year term of the contract, as this volume represents only a fraction of the 122 MGD yield available in Monroe Lake. The total volume of water committed by contractual agreements would be less than eighteen percent (18%) of the designed water supply capability of Monroe Lake. Potential impact to the recreational facilities of the reservoir is expected to be negligible. Based upon the evidence received and analyses made through June 1, 2009, the Hearing Officer recommends the Advisory Council report to the Natural Resources Commission on the contract request as set forth in this Department Memorandum.

### Verbal Comments as Recorded at Bloomington Public Meeting on IPL Contract Request May 21, 2009

- Heidi Wagner, resident--What happens to the water once it's used for cooling? What other conservation goals might be in place with regard to IPL using water in the river for cooling and how their plan addressed fish and wildlife issues? Mark Basch, Division of Water: That is not a part of this contract or application. The conservation planning in this contract request is particular to the use of water released from the Reservoir.
- Warren Henegar, resident: Can the pool be raised to allow for more water being available, using Atlanta as an example?
- Dwayne Burke, IPL: Discharges are regulated by IDEM, through NPDES permitting.
- Dave Cable, United States Army Corps of Engineers, Louisville District:
   Contract with State provides the state with full authority on water supply
   between the elevations of 515-538. Right now the State's contracts commit
   less than 20% of available supply. The lowest pool level in the past was 534
   ft. Right now the [reservoir] pool is 544 ft; 6 feet above, which we will have to
   release over coming weeks. IPL under the previous contract had a release in
   1999 for period of 8 days at a rate of 21 additional cubic feet per second to
   the Corps release of 54 cfs.
- Jim Faburn, resident: Has IPL had any problems up to this point? Response Monique Riggs, Division of Water: IPL had required a single release under the former contract, in 1999.
- Jon Langley, Deputy Director of the City of Bloomington Utilities—Welcome to Bloomington, as you can tell we here regard Monroe Lake as a crowning jewel of the area. Read a statement into the record—We realize that this request is a back up plan in case IPL needs additional water to cool its generating plant, but because it could affect the livelihood of Bloomington and Monroe County we believe our active participation in the matter is warranted. Lake Monroe serves as the primary source of drinking water to Bloomington, IU, a small part of Brown County, to over 22k residential, commercial, industrial and wholesale customers. That's the number of individual meters in the system, actual number of people we touch every day 100k+ people, 40 year reputation as responsible stewards of Lake Monroe while serving the needs of their customers. This process is underway to ensure our ability to

uphold that accountability and that it continues in the future. We are pursuing expanding the capacity Monroe County treatment plant from 24 MGD to 30 MGD. In addition, improvements are planned to the distribution system, including a second primary water main, a new water tower and additional piping infrastructure. This 40 million dollar investment further symbolizes our dedication to our customers and our community as a whole. As you know a community's ability to provide water to its citizens and businesses is a key component to the vibrancy of its economy and the collective human health. In recent years the economic emphasis of Bloomington & Monroe County has shifted from a heavy reliance on manufacturing to one placing a high priority on the life sciences. These companies and the ones that come after the ones that are already here; require a large amount of high quality water to conduct business, and they rely on us to make sure there is an ample supply. It is for these reasons that we are taking an active role in the application by IPL and making our interests known. We look forward to working with you. Thank you.

Richard Martin, Member of the Monroe County Planning Commission-I'd like to read into the record a letter addressed to Michal W. Neyer, P.E., Director Indiana Department of Natural Resources Division of Water—see attached. Also [shows a map] to illustrate potential low pool issues if a drought is experienced in Northern [part of the basin]. However, when this lake becomes low and we have competing uses for the water that's when we really start to worry about it. I am not confident that the 515 [elevation] level that was established when this lake was built is in fact valid today. You need to do some looking at the study of the watershed that was conducted by DNR I believe about 5 or 6 years ago; doing some profiles of sedimentation in the lake at this point and time to see whether or not the original forecast for rates of sedimentation in various areas are still consistent. One of things I did was to take a topographic map that shows the reservoir now and has on it some lines that were originally drawn on it when the reservoir was created that show what the topography was previously. As you can see, what I did was outline what was previously the 520 [ft. elevation] line. So this is the 520 elevation. But here's the lake at 538 [ft. elevation], here's the lake at 520 [ft elevation]. It's down just this little bit down here. You are talking about a low level that is 5 feet below that. So you're talking about a significant difference in the elevation of the lake. Also notice that at this level the intake tower for Monroe drinking water. So what's coming in at the bottom of that intake tower is coming from here, and a point that's not at 520 [ft. elevation] anymore, an area that is quickly disappearing. So its questionable of whether or not we would actually be able to get our 23 million gallons a day drinking water even at 520 [ft elevation]. So the problem is not that they want to use water when there are low-flow conditions on the [White] River, the problem is how much water they want at what pool level. So something that would limit their withdrawal at say, 525 [ft elevation] would be a much more reasonable thing for us to think about doing. The 515 [ft. elevation] is just unrealistic. I can tell you by that time we are going to be out with shot guns making sure people

don't take water out of that reservoir. Because our priority is here, and it is certainly not the generation of electricity. It's much easier to move electricity on a grid than to move water uphill or bring it by pipeline. That's our concern. So, we understand that there's a need for this and that it's a reasonable thing to do because it's a large river system there will be low flows occurring in local areas along that river system and drought conditions limiting flow, but we don't want to end up in a situation where our drought condition is unsupported moving forward. And that just means we need to raise that threshold limit from which the draw downs would occur.

- Bill Snider, resident of Bloomington: I relocated here a few years ago from Minnesota, where we are very protective of our environment. Does the IPL currently have their own facility to store water? (No.)
- Dwayne Burke, IPL [Responds "No." to question above.] We have just the
  water from the river as it surrounds the cooling site by way of lagoon. They
  have a very small amount of water on site compared to what we are talking
  about here.
- Jim Fabum, resident: Is it possible over time that more water could be stored [in Monroe] for this purpose? I know that the lake can go up a couple feet in a day. I've seen it. I can tell by my boat dock. I guess my concern is that another contract for 20 years is unrealistic. Faced with today's situation things change rather quickly in our environment and whatever new contract is agreed to that it should be for a shorter period of time.
- Julie Thomas, Monroe County Council: I was little shocked to hear that "and then when the contract is approved" in the presentation...was that in general? This is not a done deal, right? Response, Monique Riggs, Division of Water: That's correct. This is the beginning of the process for IPL.
- Julie Thomas continues: Alright, the other thing is I absolutely agree that we should re-evaluate what space is available. I don't think we've seen our worst drought yet, and I don't thing we've seen our worst flood yet. I think we are experiencing a time of change in our environment and that if we are in a drought condition we don't really know what will happen.
- Dave Cable, USACE: It is our concern, and we wanted to state that Corps built the reservoir for two purposes, one being flood control, with other purposes having come into play since then obviously. The second purpose is water supply. As far as the Army Corps is concerned the reservoir is for containment of flood water and for maintenance of downstream releases. The portion of water supply that belongs to the State can be used based on their requirements. As far as releases, if the State asks us for it and it meets their criteria, that is what we are going to do. One thing that has been left out thus

far is that there is a limit set up going in, that at maximum release rate of 36cfs (in addition to Corps' releases) it will last for 14 days and when that used that's it. We're still talking that with this amount over a continued period, we're still going to go down less that a foot total, probably more like half a foot if they used every bit of water available through this contract. I'm not saying it's good or bad. If we didn't get the spring rains or winter snows we might be lower. Right now we are 6 ½ feet up, and it will take three or four weeks to get rid of that water. When it comes September or October when this release would probably be needed we are probably going to be somewhat low. But still well above the 528 [ft. elevation] and well above the 525, 515 and so forth. The Corps really doesn't have an issue, we'll supply what [water] we have to supply.

- Barbara Lantz, resident: We cannot just give our water to industries that don't serve Monroe County. This is our drinking water, this is our bathing water, this is water that my granddaughter uses every day and that is very important. I encourage anyone making a decision on this to consider that there are too many variables to approve this right now. I would also like to say to IPL that you need to change your business model. I think this energy intensive component is not helping all of us. We need to think in terms of what is good for everybody and not just the corporations. I'm shocked to here that their additional contingency plan is to call the Governor. You should have another contingency plan in place.
- Bill Schneider, resident: I would like to point out that as an educational thing
  we can look at Lake Linnear (sp?) near Atlanta. They had about a three year
  drought that is over now thank goodness, but they had a very serious
  situation down there. I think we can learn a little bit by what happened down
  there. Thank you.
- Richard Martin, Monroe County Planning Commission: In terms of drought conditions can we go back and look at what existed in the early 1920's. It was the drought of the 1920's that spurred the City of Bloomington to really get serious about the building of a reservoir to hold water. As a result, action was taken to build Lake Lemon reservoir, etc. Adequate water supply has been a critical part of Bloomington and Monroe County for a hundred years. There was a time when Indiana University was considering moving out of town because they couldn't get enough water. You need to understand the critical nature of water to this community. It [Bloomington] sits on a ridge, at the top of two watersheds so we have no natural water supply here. So when it stops raining for even a short period of time, things get dry in a hurry because everything is downhill from here. Making sure that we have adequate water is absolutely essential to this community, more so because we cannot pull water from any other source during a drought. You can move electricity around so much easier than you can move water around.

- Todd Stevenson, City of Bloomington: I was wondering how much water usage would increase in a drought period in Bloomington, and I wondered if there was any other entity that has approached the DNR for water supply from Monroe.
- Response: Jon Langley, City of Bloomington Utilities: A typical day is a
  withdrawal of around 14 million gallons on average. Our peak days are closer
  to 25-26 million gallons. So that's why we are seeking to expand to 30 million
  gallons per day. That would be at capacity to produce thirty million gallons.
  Currently we are contracted with the State of Indiana for an average of 24
  MGD. I view that as if I need 28 one day I can average that on lower capacity
  days.

Second question Monique Riggs, Division of Water: There was a contract approved by the Commission in March for Eagle Pointe Golf Course. It went through this same process for renewal.

 Iris Kiesling, Monroe County Commissioner: Why was that request [for Eagle Pointe] not noticed?

Response: Monique Riggs, Division of Water: It was noticed in the Bloomington Herald Times. I would be able to provide the publisher's affidavit if you'd like verification.

Todd Stevenson, City of Bloomington (Three questions):

1) What is the timeframe of the City's [Bloomington] contract? Response: Monique Riggs, Div. Of Water: 20 years.

2) Where are the pumps for the City's [Bloomington] water supply and are they impacted?

Response: Jon Langley, City of Bloomington Utilities: Basically when the pool is low we wouldn't be able to pump as much water.

3) If 24 million gallons is your average per day, at what level is it that you could not pump the water?

Jon Langley, City of Bloomington Utilities: I would want to research that before I answer in a public forum. I will tell you that our emergency pumping capability maxes at about 13-14 million gallons and what we would be able to do at an appropriate level. We try to minimize our backflow.

Amy Thompson, resident: What other meetings will be held in regard to this application? M. Riggs, Div. Of Water: It will go the Advisory Council on the 10<sup>th</sup> of June, and to the Commission in July. Mark Basch, Div. Of Water: Written Comments are also welcome by email or mail and will be provided to the Council and Commission. Check the DNR website for dates, times, & locations of the meetings.

Richard Martin, resident: I want to thank you for coming and doing this today.
 I hope you got some good information. It is a serious concern to the community, so serious that we are looking at other means of acquiring water.



June 1, 2009

#### HAND DELIVERED

Monique Riggs, Environmental Scientist Indiana Department of Natural Resources Division of Water 402 W. Washington Street, Room W264 Indianapolis, IN 46204-2641

RE:

Contract MWS-09-3

IPL Petersburg Generating Station

Reservation of 1,000 acre feet from Monroe Lake

#### Dear Ms. Riggs:

Indianapolis Power & Light Company ("IPL") submitted a complete application to the Indiana Department of Natural Resources ("DNR") on March 18, 2009 which, if approved, would allow IPL to enter into a contract with the State of Indiana for periodic low flow augmentation provided through the release of water from Monroe Lake. IPL would use the water in the operation of our Petersburg Generating Station located on the White River in Pike County, Indiana.

On May 21, 2009, DNR held two public meetings in the vicinity of Monroe Lake to provide an opportunity for public input on the proposed contract request as required by 312 IAC 6.3-3-3. IPL representatives participated in both meetings, which were held at the Monroe County Courthouse and the Brown County Offices Annex Building. At those meetings, DNR requested that written comments on the proposed contract, if any, be submitted to DNR on or before June 1, 2009.

Below are IPL comments on the proposed contract. More specifically, IPL hereby provides comments on the five (5) factors the Natural Resource Commission shall consider, subject to the approval by the Attorney General and the Governor, in determining whether to enter into a contract as authorized by IC 14-25-2:

#### (1) Terms, conditions, and purposes of authorizing legislation.

The IPL contract proposal meets the terms, conditions and requirements of IC 125-2. The statute authorizes the state of Indiana to enter into contracts for release of water from state-owned reservoirs to "create increased flowage beyond normal"

Monique Riggs Indiana Department of Natural Resources June 1, 2009 Page 2 of 3

stream flow for use by the contracting party." IPL is proposing to purchase the release of water from Monroe Lake, a state-owned reservoir, for the purpose of downstream water supply during low flow conditions. Monroe Lake was constructed with additional storage capacity for the express purposes of providing water supply and low flow regulation. Furthermore, IPL's request is to continue a previously-authorized allocation from Monroe Lake and does not represent a new allocation. The amount of the allocation IPL is requesting now is the same amount allocated in IPL's previous contract with DNR.

(2) The likelihood of adverse effects to (a) public safety; (b) the environment; (c) navigation; (d) recreation.

The likelihood of adverse effects to public safety, the environment, navigation, and recreation is very remote for several reasons, including but not limited to:

- (A) the maximum annual amount of water to be allocated under the contract to IPL for release (1000 acre feet) is only 0.6% of the total amount of water the State is authorized to sell from the reservoir pursuant to IC 14-25-2;
- (B) IPL's rights to the availability of low flow augmentation from Monroe Lake pursuant to the contract are subject to the rights, privileges, and limitations imposed upon the State pursuant to the provisions of Articles 1, 2, 3, and 4 of Contract No. DA-15-029-CIVENG-61-54 between the State and the United States of America, dated 1 December 1960 as well as the water allocation priorities established in 312 IAC 6.3 which governs any contract for water withdrawal or release from a reservoir that occurs during a drought alert or another emergency;
- (C) the State is not required to provide water to IPL under the contract if the water is physically not available in Monroe Lake due to causes beyond the control of the State; and
- (D) during the 25 year term of its previous contract with DNR for low flow augmentation from Monroe Lake, IPL believes there has been only one occasion when IPL received water from the reservoir and, in that case, IPL did not require release of its full allotment.
- (3) The availability of another source of water to the person making the request.

The White River is the only feasible source of cooling water that is available to IPL's Petersburg Generating Station. The release of water from Monroe Lake will flow unaided to the plant via the White River and is the most efficient with to address a low-flow augmentation event at the plant, if one should occur. In order for IPL to obtain additional surface water from other large regional sources such

Monique Riggs Indiana Department of Natural Resources June 1, 2009 Page 3 of 3

as the Wabash River, Ohio River, or Lake Patoka, IPL would be required to obtain approvals and install and maintain massive pumping operations along with piping, which is not a feasible option to address this rare low flow augmentation need. The pumping of ground water is not a viable option for the same reasons. Finally, the plant does not have the capability to store this amount of water on site.

(4) The proximity to the reservoir of any person that would receive water from the person making the request.

There is no person who would receive water from IPL as a result of this request. The water will be used as a source of cooling water for IPL's Petersburg Generating Station.

(5) The water allocation priorities for the use of the water withdrawn.

IPL's proposed use for the water can be categorized both as a second priority use and third priority use under 312 IAC 6.3-4-1(5)(B) and (C), respectively. The water released from Monroe Lake will be used by the Petersburg Generating Station in the production of electricity, which is vitally necessary in the provision of public health and safety services. The generated electricity also contributes to meeting the load demand of customers in the MISO region during what are traditionally the peak months of electricity use.

IPL has provided its contingency plan in its submitted application. To further refine this information, please note that if it becomes necessary for IPL to activate its contingency plan, the resulting loss of electric power to the region could result in brown outs or require the implementation of rolling black outs in all or parts of the state of Indiana.

IPL appreciates the opportunity to provide comments on this proposed contract. Please feel free to contact me at 261-8839 or at <a href="mailto:dwayne.burke@aes.com">dwayne.burke@aes.com</a> if I can provide you with any additional information.

Sincerely,

Dwayne Burke, Environmental Affairs

Cc: Jeff Harter

Annette M. Engle



#### Discharge Information for Monroe Lake

CFS stands for cubic foot per second, which is how we measure our discharge. Our flood control discharge at Monroe Lake is 200 CFS. The minimum discharge when the lake is below normal pool (538 msl) is 50 CFS. Our maximum discharge is approximately 2600 CFS.

1 CFS = 7.42 gallons of water per second; 26,712 gallons per hour; or 641,008 gallons per day. 50 CFS = 371 gallons per second; 1,335,600 gallons per hour; or 32,054,400 gallons per day. 200 CFS = 1484 gallons per second; 5,342,400 gal. per hour; or 128,217,600 gal. per day. 2600 CFS = 19,292 gallons per second; 69,451,200 gal. per hour; or 1,666,828,800 gal. per day.

In comparison, on an average summer day the city of Bloomington uses an estimated 16,000,000 gallons of water per day.

5/21/09

Provided by Dave Cable
Pr Pudic Neeting
Bloomington, IN

#### MONROE COUNTY PLANNING COMMISSION

and office of the

#### MONROE COUNTY BOARD OF ZONING APPEALS

Courthouse - Room 306 Bloomington, IN 47404 Telephone: (812)-349-2560 / Fax: (812)-349-2967 http://www.co.monroe.in.us/planning

Director: Gregg Zody, AICP Assistant Director: Jason Eakin, AICP

May 21, 2009

Michael W. Neyer, P.E, Director Division of Water Indiana Department of Natural Resources 402 W. Washington St. Room 264 Indianapolis, Indiana 46204

Mr. Neyer:

The Monroe County Plan Commission expresses its concern about the proposed contract renewal between the Department of Natural Resources and Indianapolis Power and Light, which proposes drawn-downs of up to 23 million gallons of water per day from Lake Monroe as a contingency plan for cooling Indianapolis Power and Light Company's Petersburg generating facility.

Our concern for the potential significant withdrawal from the County's main source of drinking water is three fold: 1) the impact on maintaining sufficient potable water in drought conditions when the lake is already at low pool levels; 2) the significant negative economic impact the potential draw-down would have on our tourism economy, of which Lake Monroe plays an integral role; and 3) the interdependent ecological systems of the Lake Monroe watershed, its aquatic habitat, and the watershed's ability to function as a natural filter for run-off from impervious surfaces and land-disturbing activity when seasonal pool elevations are negatively impacted by significant draw-downs.

Given the fact that Monroe County residents have in the past consumed nearly 23 million gallons per day, we do not want our ability to maintain sufficient water capacities for drinking and other local uses jeopardized as a result of additional draw-down with volumes equaling our residents' daily consumption needs.

Respectfully,

Jerry Pittsford President Monroe County Plan Commission



#### CITY OF BLOOMINGTON

OFFICE OF THE MAYOR

401 N Morton St Suite 210 PO Box 100 Bloomington IN 47402 p 812.349.3406 f 812.349.3455 mayor@bloomington.in.gov

May 28, 2009

Mr. John Carter State of Indiana Department of Natural Resources 402 W. Washington, Room W264 Indianapolis, IN 46241

Dear Mr. Carter,

I am writing to express my concern with the recent consideration by the State of Indiana and the Department of Natural Resources to once again provide Indianapolis Power and Light consent to draw millions of gallons of water annually from Lake Monroe.

While preliminarily this measure seems consistent with past practice, I would like to impress upon you the City's unconditional commitment to the responsible stewardship of the tax dollars of our citizens and the environmental well-being of Monroe's largest lake, our community's water source. It is additionally important to note that Lake Monroe provides water for the City of Bloomington, Indiana University and a portion of Brown County.

There are a few outstanding questions to which I hope you can provide answers. My understanding is that this contractual agreement between the State and IPL will serve solely as a safeguard for the State against extreme circumstances. Is that an accurate assumption?

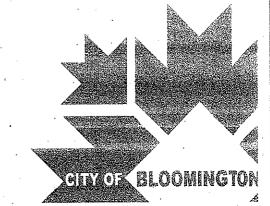
Second, are there any practical differences between the contract currently under consideration and the one that lapsed in 1999?

Also, were water sources other than Lake Monroe considered and, if so, why is Lake Monroe a preferable option?

I appreciate the opportunity for public input that you have provided to our community, and I thank you for your consideration of our concerns.

Sincerely.

Mark Kruzan, Mayor City of Bloomington





June 16, 2009

Mark Kruzan, Mayor City of Bloomington 401 N Morton St Suite 210 PO Box 100 Bloomington, IN 47402

Dear Mr. Kruzan:

Thank you for writing to express your concerns regarding the Natural Resources Commission's consideration of the proposed contract between the Indianapolis Power & Light Company (IPL) and the State of Indiana for the occasional release of water from Lake Monroe for the purpose of providing augmentation to the White River during occurrences of low-flow. A copy of your letter was provided the Natural Resources Advisory Council on June 10th, 2009, for their consideration along with the contract request.

As stated in your letter, this proposed contract would be, if approved, consistent with the previous contract between IPL and the State of Indiana. However, I would like to clarify the specific conditions of the proposed contract request and offer responses to your questions.

You are correct that this contract would represent a safeguard for IPL against low flow occurrences in the White River which their Petersburg Generating Station uses for cooling water. There are no substantive differences between IPL's initial contract (1980-2005), and this proposed contract request. This request is for an annual reservation of 1,000 acre feet (325.9 million gallons), or 0.6% of the 160,000 acre feet of state owned water supply available in Lake Monroe. The contract specifies that the 1,000 acre feet could be released from Lake Monroe at a maximum rate of 36 cubic feet per second (cfs), which limits the duration of the release to a total of fourteen days. Conditions may allow for releases at a lower rate, and therefore for a longer period of time; subject still to the contractual 1,000 acre feet annual limit. It should be noted that a release of water was requested on only one occasion (1999) under the 25-year term of the former contract.

Indianapolis Power & Light Company has indicated that Lake Monroe is their most feasible source of water for cooling purposes because a release from the lake can flow unaided to their Petersburg Station via the White River, and is the most efficient way to address low-flow augmentation. To acquire additional water from other large regional sources such as the Wabash River, Ohio River, or Patoka Lake would require the installation of substantial pumping facilities and pipelines. Groundwater availability is minimal in the area, and IPL does not have the capability for the on-site storage of water necessary for low-flow augmentation. Therefore, IPL does not consider these options as viable alternatives to address the rare occurrences requiring low-flow augmentation.

Page 2 Mayor Kruzan June 16, 2009

Division of Water staff believe that the volume of water available from Lake Monroe is adequate to satisfy the potential release of 23.27 million gallons a day (MGD) for fourteen (14) days under the twenty (20) year term of the proposed contract. This volume of water represents a small fraction of the 122 MGD available from the State owned water supply storage in the lake. Current contractual agreements on Lake Monroe represent approximately seventeen percent (17%) of the total State owned storage. In an extreme drought, and well prior to reaching the base water storage elevation of 515 feet, we would be working with local officials and the contracted withdrawal facilities to maximize the availability of the water resource. Please be aware that State statute and the regulations governing this matter establish domestic water supply as the first priority use. In addition, the potential impact to recreational facilities on the reservoir is expected to be negligible.

The IPL contract request will be heard before the Natural Resources Commission on July 21, 2009 at 10:00 a.m., EDT, (9:00 a.m., CDT), Fort Harrison State Park (The Garrison), Indianapolis. The agenda materials for the meeting will be published online at <a href="https://www.in.gov/nrc/2350.htm">www.in.gov/nrc/2350.htm</a> when they become available. While your attendance at the Commission meeting is certainly not required, it would be welcomed. Thank you for allowing the opportunity to respond to your concerns and consider your comments.

Sincerely,

Sou M Alicon
Ron McAhron
Deputy Director

Indiana Department of Natural Resources

#### ADVISORY COUNCIL

Minutes of June 10, 2009

#### **MEMBERS PRESENT:**

Patrick Early, Chair

AmyMarie Travis Lucas, Vice Chair

John Bassemier

Richard Cockrum

James Trachtman

Bill Freeman

Donald Van Meter

Kari Evans

Ross Williams

David Lupke

#### NATURAL RESOURCES COMMISSION STAFF PRESENT:

Sandra Jensen Jennifer Kane

#### DEPARTMENT OF NATURAL RESOURCES STAFF PRESENT:

John Davis

**Executive Office** 

Ron McAhron

**Executive Office** 

Linnea Petercheff

Fish and Wildlife

Gregg McCollam

Fish and Wildlife

Wayne Bivans

Fish and Wildlife

Mitch Marcus

Fish and Wildlife

Mike Crider

Law Enforcement

Steve Hunter

Law Enforcement

Jim Hebenstreit

Water

Monique Riggs

Water Communications

Phil Bloom

State Parks

Cheryl Hampton

#### **GUESTS PRESENT:**

Dwayne Burke

John Goss

Dick Mercier

Bill Herring

Jack Corpuz

Annette Eagle

Jeff Harter Don Gorney Fred Mills

Jeff Morgan

Jerry Moll John Christopher

Anne Sterling

#### Call to Order by Chairman, Patrick J. Early

Patrick Early, Chair of the Advisory Council, called the meeting to order at 10:35 a.m., EDT, at The Garrison, Fort Harrison State Park, 6001 North Post Road, Indianapolis, Indiana. With the presence of ten members, the Chair observed a quorum.

John Bassemier moved to approve the meeting minutes of February 11, 2009 and the meeting minutes of April 8, 2009. Bill Freeman seconded the motion. Upon a voice vote, the motion carried.

The Chair introduced a new member of the Advisory Council, Ross Williams. The Chair said, "This is his first meeting, and he has just been recently approved to be on the Council by the Governor." He welcomed Mr. Ross, and then asked Mr. Ross to provide brief background.

Ross Williams said he now resides in Indianapolis, but originally is from Northern Indiana. "I work in the local community and am very involved in the DNR." He said he enjoyed hunting, fishing, and the outdoors. "I look forward to being a part of [the Advisory Council]".

Consideration of Hearing Officer Report in Preparation for Advisory Council Summarizing Public Meetings and Making Recommendations to the Natural Resources Commission Regarding Request by Indianapolis Power & Light Company for a Water Sale Contract Under IC 14-25-2 and 312 IAC 6.3; Administrative Cause No. 09-100V

Monique Riggs, Environmental Scientist with the Division of Water, presented this item. She provided the Advisory Council members copies of graphic depicting water cross-section of Monroe Lake, summarization of IP&L contract terms, and a copy of a letter from City of Bloomington Mayor, Mark Kruzan, dated May 28, 2009.

Riggs said that the State of Indiana owns water supply storage in reservoirs that were funded fully or in part by the state—Monroe Reservoir being one of those reservoirs. She said Monroe Reservoir was constructed by the Army Corps of Engineers for flood control purposes, and Indiana "kicked in" additional funds for a water supply storage component. Riggs said the State is authorized by IC 14-25-2 to enter into contracts to provide water on a unit pricing basis or to provide minimum quantities of stream flow from storage in these impoundments for which the State is compensated at a legislatively set rate of \$33 per million gallons of water.

Riggs explained that the handout shows a "very simple" cross-section of the components of Lake Monroe, which is divided into three different sections: the sediment pool, the water supply storage component between elevations 515 feet and 538 feet, and the flood control component at 538 feet to 556 feet. "The water supply storage component equates to 160,000 acre feet, and provides for a yield of 22 million gallons a day". She noted that

currently 17% of the water storage component is committed by contract. The addition of the IP&L contract would add .6%.

Rick Cockrum asked, "How much is committed?" Riggs answered, "17%." Cockrum then asked, "Of?" Riggs answered, "Of the available water supply, the storage component as a whole."

Riggs explained that it is from the storage component that IP&L is requesting a reservation of 1,000 acre feet, which would be an annual limit for periodic releases, if needed, for low flow augmentation of the White River at the Petersburg Electric Generating Plant. She said the maximum release would be 23.27 million gallons a day and that would last for 14 days at the maximum release rate of 36 cubic feet per second. "Depending on conditions, [IP&L] is not required to release at the maximum rate, so that could be adjusted. But once [IP&L] reaches that 1,000 acre feet limit, which is 325.9 million gallons, that's [IP&L's] allotment".

Riggs said that if this contract is approved, it would be IP&L's second contract with the State. She said the first contract was from 1980 to 2005. She noted that IP&L utilized that contract for release once in 1999.

Riggs explained that public meetings were held pursuant to 312 IAC 6.3. She said a summary of the public meetings was provided in the Advisory Council's packet. Riggs said two meetings were held on May 21, 2009 one in Brown County and one in Monroe County. She noted that public participation included 23 individuals that signed the roster at the Monroe County meeting, and five individuals signed in at the Brown County meeting. Riggs also noted that the summary includes "many concerns" expressed by interested parties. She said the "main concerns" expressed at the public meetings were: the maintenance of adequate drinking water supply for the City of Bloomington, Indiana University, and Monroe County residents; competing uses for the water of Monroe Lake; and the availability of water during drought conditions.

Riggs noted that Jim Hebenstreit, from the Division of Water, was present at today's meeting along with representative from IP&L.

AmyMarie Travis Lucas asked, "I would like them to address the drought concerns that were kind of addressed in the prior meeting regarding when their usage might occur during a drought situation with Lake Monroe?"

Riggs explained that IC 15-25-2 was amended to include priorities for the use of water that would be instituted in times of drought or other emergency. The limitations would be placed on lower priority water uses. She said the contract itself, as it is written, contains a section that indicates that if water "is not available for any reason—it doesn't specify what—that water is simply not available from the reservoir."

Travis Lucas then asked, "What would be the triggering mechanism for deciding that we are in a 'drought' situation? What does the water level have to drop to before that's considered, that part of the contract and that part of the statute is addressed?"

Riggs said that she was not sure there was a specific elevation.

Jim Hebenstreit, Assistant Director of the Division of Water, explained that there was a standing Drought Task Force that monitors drought conditions. "We obviously want and know Lake Monroe is a water supply for both Bloomington and IP&L. As drought develops, we start working with people who are using water from any source where there is a problem. So that would be what we would do. If it looks like we are getting to a problem with the levels in Monroe, we would start working with both, all users to reduce usage as much as possible and to try to share the hardships," He said the contracts give the State the ability, "if the water is not there, the State does not have to release the water." Hebenstreit said IP&L's situation is a "little bit more complex", because the release is "really to maintain what [IP&L] calls 'Q710', which is a low flow condition. [IP&L's] release could very well occur in winter months if [IP&L] needed a certain volume of water to maintain that flow at the plant". He noted that in 1998, the "worst" drought in 20 years, IP&L needed water, but unfortunately there are thermal limits in its permits, a release from Monroe Lake would not do IP&L any good, because they did not ask for water then.

Cockrum asked whether the contract supersedes the Drought Task Force. Hebenstreit said there are statutes that govern disasters. He said that if the Governor declares an emergency, "all bets are off. The Governor has the call on what the State does."

Kari Evans stated, "I just want to make a comment for everyone here. I probably should have jumped in right at the very beginning. I am going to recuse myself from discussion and consideration on this matter. [Indianapolis Power & Light] is a client of my law firm. I just think it is best from an appearance standpoint that I just won't take part in this discussion and consideration."

Cockrum asked whether the Mayor of Bloomington's questions expressed in his letter were addressed by the Department.

Hebenstreit said that he was not aware that a formal response was forwarded to the Mayor; however, the Division of Water contacted the Mayor's Office and provided verbal responses to the Mayor's concerns.

The Chair asked, "The amount of usage that you are contemplating, we were at 17%. This is really under normal conditions fairly *de minimis* the impact the contract has on the supply, correct?" Riggs answered in the affirmative, and explained that the IP&L contract, if approved, would add .6%.

The Chair said that the water contract request seems like a "fairly small impact" on the existing supply. "We are fortunate that all of our reservoirs have pretty significant excess capacity at this point in time based on the contracts that we have."

Hebenstreit said the City of Bloomington has a contract to withdraw 24 million gallons per day and the IP&L contract would increase the withdraw from Lake Monroe to 40 to 45 million gallons per day, which is a third of the water supply storage available in the reservoir. Hebenstreit said the first impacts that will be seen as water levels drop are to the recreational uses of the lake, "which is really not one of the primary purposes of Lake Monroe; its water supply and low flow augmentation."

Bill Freeman asked whether Lake Monroe was the only source of water for the Petersburg Generating Station. Hebenstreit answered, "It's probably the only surface water source, and probably the only viable alternative to increase flow in the White River." Freeman then asked, "[IP&L] doesn't have wells or something that [it] uses?] Hebenstreit indicated that he was not aware of any wells.

Fred Mills, representative from Indianapolis Power & Light, indicated that wells were not available "to the quantity that is required for this kind of situation."

Freeman asked, "Bloomington is asking to increase from 24 million gallons per day to 30 million gallons per day?" Hebenstreit answered in the affirmative; however, he noted that Bloomington has not formally requested a water contract increase.

The Chair explained that the Advisory Council is acting as the hearing officer on this matter. "And what we would do is make a recommendation to the Commission with our recommendation for approval."

Richard Cockrum said, "I'm a little bothered that the Mayor [Mark Kruzan] was not given a response. I think he deserves that. He wrote a letter to the Department asking questions, and there isn't a written response to answer his questions. I find that somewhat bothersome. I think he deserves that as a mayor of a pretty major city."

The Chair said, "Can we make sure that happens?"

Jim Hebenstreit said that the Department will provide a written response to the Mayor Kruzan's concerns.

Donald Van Meter asked, "How about the Plan Commission letter?"

Hebenstreit said that letters will be forwarded to both the Mayor of Bloomington and the Plan Commission.

Bill Freeman moved to approve the hearing officer's report, as the Advisory Council's report to the Commission under 312 IAC 6.3-3-4, and that the Advisory Council recommend the Commission enter a contract with Indianapolis Power & Light, under IC

14-25-2 and 312 IAC 6.3, consistent with the hearing officer's report. Donald Van Meter seconded the motion. Upon a voice vote, the motion carried, with one abstention.

Consideration of public comments received through the Fish and Wildlife Comprehensive Rules Enhancement Project regarding rules governing hunting, trapping, and taking mammals (except deer); Administrative Cause No. 09-085D

The Chair explained that approximately one year ago a process was initiated to conduct a comprehensive review of the fish and wildlife rules codified at 312 IAC 9. He noted that a Steering Committee was formed to provide the review. The Chair said the first step of readopting 312 IAC 9 was completed last year, and the second step involves proposing non-substantive changes to the existing rules. "Those [amendments] have been occurring for the past three or four meetings at the Commission." He noted that the third step in the process is to "review and consider" substantive changes to the rules. The Chair explained that today's meeting is the first public meeting to consider the "first set" of suggestions submitted through the Commission's Web site, "We had about 1,000 suggestions."

The Chair commented, "The staff has done a wonderful job of trying to sort those [suggestions] into common groups, because not any two are exactly alike but we think we have come pretty close with that." He noted that "most" of the Steering Committee—Bryan Poynter, John Davis, Phil French, John Goss, Col. Michael Crider, and Sandra Jensen—were present at today's meeting. The Chair explained that the suggestions were characterized into five major topics, and the first topic to be considered today is hunting, trapping, and taking mammals but excluding deer. "Any decisions we make have no binding affect, so we are not adopting anything or declining anything. What we are doing is we are reporting on to the next step."

The Chair explained that the Advisory Council, in reviewing the suggestions, will make one of the following recommendations to the Natural Resources Commission: (1) recommend that a suggestion "has merit or appears to have merit and a lot of support" and deserves further study and consideration; (2) recommend a suggestion "doesn't have merit. It may not be because it didn't have any merit to the person that made it, and we are not being judgmental, but either it's something we can't deal with or we already know there is a regulatory reason we can't deal with it...or it is not practical"; (3) recommend more study be given to the suggestion, which would involve Department staff reviewing the biology or social impacts; or (4) determine that a suggestion would involve legislative action. "In this particular recommendation, we can't really do anything other than refer it on to our legislative agenda." He noted that the Advisory Council is not making any biological decisions. We are not trying to do anything other than to sort through these initial 1,000 suggestions and try to make sure things are going down a funnel. So that what ends up coming out of the funnel are things that really are good for hunters and fishermen, and positive for, I guess, for all of the people in Indiana...We are trying to do what is in the best interest to the State".

The Chair announced that the following subtopics have been determined and will be reviewed as follows: (1) License Fee Structure and Added Types of Licenses; (2) Youth Licenses; (3) Senior and Low Income Licenses; (4) Lifetime Licenses; (5) Coyote and Year Round Hunting Season; (6) Coyote/Hunting and Trapping Methods and Equipment; (7) Coyote and Holding Furs for Selling; (8) Opossum and Raccoon Extended Hunting and Running Season; (9) Squirrel Extended Season; (10) Squirrel Change of Season; (11) Exotic Mammals; (12) Hunter Education; (13) Cotton Tail Rabbits; (14) Miscellaneous Licensure Suggestions; and (15) Miscellaneous Suggestions.

Richard Cockrum asked, "So at the end of the day today, will we be moving on the recommendations you went through or are we going to wait until the end in October when we have them all as a package?"

The Chair explained that the Commission will consider a "whole packet" at its November meeting. "We do not have to today to come up with what we are moving on." He noted that as the process moves forward there may be overlap on certain topics that would provide additional information on other topics reviewed in future meetings.

John Davis explained that administrative rules expire every seven years, and noted that since 312 IAC 9 was readopted in 2008, the review process is not under an "artificial" timeframe. He noted that a legislative change was made that amended the definition of "youth" into consistency across the youth hunting regulations. A "youth" is anyone under 18 years of age.

Bryan Poynter, Chair of the Natural Resources Commission, noted that the Steering Committee is "remarkably" on schedule with the review process. He said the Steering Committee's objective is to move "efficiently" through the process. Poynter said "substantively we hope that we can move the best of the recommendations forward."

The Chair explained that the subtopics to be reviewed first are those to which persons had submitted cards indicating a desire to speak.

#### SUBTOPIC: Opossum and Raccoon Extended Hunting and Running Season

Jack Corpuz noted that he is a member of several sporting clubs. Corpuz said, "I don't have a real problem with the season the way it is set up. I think they have plenty of opportunity the way it is." He said the existing rule provides a "small rest period" where dogs cannot run. Corpuz said that wildlife "deserves a break for a little while.... We all have to use the same woods, and I don't have a problem with that, but we don't all have to use it 365 days a year". He concluded, "Basically, I didn't want it to be a slam dunk; I just wanted to make sure there was opposition out there".

The Chair asked for Department staff to explain the existing rule governing the hunting and running season for opossum and raccoon.

Wayne Bivans, Chief of Wildlife, Division of Fish and Wildlife, explained that meetings were held a few years ago to discuss seasons. He said that raccoon and opossum hunting seasons are November 8<sup>th</sup> through January 31<sup>st</sup>, and dog running season from February 15<sup>th</sup> through October 14<sup>th</sup>. "There is a period of time between the dog running season and the raccoon hunting season that is closed to dogs, and a period of time after January 31<sup>st</sup> to February 15<sup>th</sup> is closed." Bivans said that from the science and biology side, "there isn't an issue; within the public user groups is where the issues lie."

The Chair said that "most" of the suggestions received have to with either extending the hunting seasons or removing closed season for running dogs to allow the ability to run dogs year round.

Jack Hyden, President of the Indiana Beagler's Alliance, said that "we are not really asking for extended hunting season." He explained that the raccoon "hunting world" has changed "dramatically". The guys have gotten older and the [raccoons] haven't gotten any slower. He said there has been a transition from actually hunting or taking the raccoon to field trials or "night hunts" to compete with individuals from other states for "bragging rights". Hyden said that the Indiana hunters "need that extra 40 nights of training the dogs so that their dogs are as in good hunting condition, working condition, as those folks who are from some of the other states who may have those time periods that, yes, they can be out working their dog." He noted that there are less raccoons being taken and there is more competition being done. Hyden said that most "every other" sporting dog can be out on state ground or on private ground 24 hours a day seven days a week with no restrictions. "These folks are losing 40 nights of very important training period for their dog."

Bill Freeman asked for information regarding the history of the reason for the season closure. "There's no biological reason apparently. Is it convenience for turkey hunting season?"

Jerry Moll from the American Kennel Club said, "Originally, it was more of a law enforcement issue because at one time pelts were very valuable...so there was a shutdown period before the raccoon taking season and after to allow law enforcement to better enforce" the season. He noted that raccoon pelts are not as valuable today. Moll said that Ohio and Kentucky has year round running season.

Richard Cockrum asked Jack Hyden whether he has noticed impacts to upland bird gaming since there is not a biological reason for the closure to running dogs.

Jack Corpuz said that he has heard from sporting groups that raccoon dogs running in the spring "bust turkeys off the roost". He noted that bow hunters commented that deer will not "show up" in areas where dogs have been running the night before. "These groups have to work together and work things out." He commented, "If were up to me, I would restrict all dogs to nine months or less."

Bill Freeman said, "I have seen a lot of bird dogs...and they are kept very close" to the hunter. He asked whether there was a difference in the contact a hunter has with either raccoon dogs or bird dogs.

Hyden said that raccoon dogs are usually "fairly" close to the hunter.

Freeman asked, "What is 'fairly' close? Could it be a mile?"

Hyden said that dogs can run a mile from the hunter or "usually it's going to be much closer because a raccoon loves to climb a tree." He noted that "most of the time" the dogs are running in the woods and not in the fields where upland birds nest.

Moll said that the increased raccoon population "keeps raccoon dogs in check. When you release or free cast the dog, they are more likely to find a raccoon track closer and a lot quicker". He noted that DNR issues permits for field trials during the closed running season.

AmyMarie Travis Lucas said that she has hunted for raccoon "maybe twice in my life. The testimony on the record so far is not consistent with my recollection of the two times I've hunted as far as the dogs being relatively close to the hunters."

Crider said that he agreed with Jack Hyden in that the raccoon population has changed, but he noted, "a dog is going to go until it finds a raccoon, so if that's two miles away but typically a good dog is going to strike out and find a track and run the track. He said that if there are no biological reasons for the running season closure, and only social reasons, "we are talking about a set of rules for which somebody could be arrested. And if there are not good valid reasons for somebody to be in that situation, then that's kind of where Law Enforcement is coming from on this particular issue." He noted, however, the hunter still requires permission from the land owner.

John Christopher said he is an avid bow hunter, and suggested, "If this is adopted, that it be provisional and reviewed in a year so that if there are social issues that come up that they are reviewed like the 'one buck' rule."

The Chair said that rules that result from this review process "would not be conditional changes", but noted that if rules "clearly have implications we didn't anticipate can be dealt with".

Christopher said, "That makes it a little more distasteful. As a bow hunter I don't think I ever had a [raccoon] dog come by. I don't know the impacts of this a year or two out."

The Chair noted that Christopher's comment is "very consistent with things we will have to take into consideration".

Jack Hyden said, "I'm confident that the [raccoon] hunters would not have a problem saying lets give it five years and then let [the Division of] Fish and Wildlife look at it to see if [it] wants to bring a change again."

Dick Mercier, representing the Sportsmen's Round Table, indicated that "we have members on both sides of this issue so our board has actually not taken position on it".

## **SUBTOPIC**: Coyote/Hunting and Trapping Methods and Equipment; Coyote and Holding Furs for Selling

Bill Herring indicated he was a lifelong resident of Indiana and has hunted for approximately 55 years. He noted that his father provided to him a guiding principal that "all wildlife in Indiana belongs to the state of Indiana. It was not any one individual's private possession until they had taken that wildlife in a legal manner and in legal season." He noted that rules have been amended recently to allow individuals to own wildlife as private property. Herring noted that it was "shameful" that live trapped coyotes are transported over state lines.

Herring said Indiana has a "burgeoning" coyote population, and people have differing opinions regarding coyotes. He noted that a recent rule amendment instituted a time limit to possess a live coyote, but "unfortunately, it left the opportunity for people to own, again, a live coyote in Indiana for a certain period of time." He said that as rules are considered the principle that all forms of wild mammals belong to Indiana should be kept in mind. "If we do that, we can avoid a lot of problems in the future as far as people thinking or maybe even actually owning live wild animals". He concluded, "Do not allow people to posses a live coyote for any length of time after they have trapped it. [The coyote] should be very quickly terminated."

Sandra Jensen, Administrative Law Judge for the Natural Resources Commission, explained that the Commission's Division of Hearings has received two citizens petitions for rule change that precipitated the creation of three separate administrative files. She said the petitions will "go through a committee process review" as set forth in the Commission's nonrule policy document, Information Bulletin #7, and are separate from the comprehensive rule review process being conducted by the Steering Committee. Jensen noted that the citizen petitions involve the issues of live trapping of coyotes, possession and trade in live coyotes and the running of coyotes in enclosed pens. Director Carter has appointed a committee to review the citizen petitions, and that review will be separate from this rule process.

John Davis asked for clarification regarding the existing rule governing possession of coyotes.

Jensen explained that last year a rule was adopted requiring any coyote that is taken, trapped live, outside of trapping season must be euthanized within 24 hours of being taken. She noted that there may be statutory limitations prohibiting a requirement that coyotes taken in season be euthanized.

John Davis asked for clarification of rules regarding transportation of live coyotes across state lines.

Linnea Petercheff with the Division of Fish and Wildlife explained that if coyotes are exported outside Indiana, the transportation has to be in accordance with the other state's regulations. "A lot of states are making changes regarding allowing importation of coyotes." Indiana allows, if a person has a game breeder license, the person can import a coyote and keep it in captivity under that license. An importation permit is required for coyotes to be imported into Indiana.

Bill Herring summarized, "I am in favor of basically outlawing any importation or exportation from Indiana live coyotes, and also all coyotes live trapped should be euthanized promptly."

David Lupke asked whether game breeder licenses were being issued specifically for coyote. Petercheff answered in the affirmative. She explained that traditionally the coyotes are legally obtained during the coyote season, and by statute, the game breeder is allowed to keep a coyote if the coyote has been trapped during season.

The Chair noted that the majority of the suggestions received suggested that since taking of coyotes on private property is open year round that the hunting and trapping season should also be year round.

Jack Hyden said that "quite a few" trappers that are members of the Beagler's Alliance have commented that "their biggest issue is that, again, coyotes have become basically a pest. They are a predator and they kill a lot of other game animals, rabbits, squirrels, and quail." He said a coyote pelt is "not worth that much; however, a trapper can get \$60 to \$90 out of a live coyote." He said the trappers believe that "this is a very good population control. There is an incentive there to take the coyote; whereas, for its pelt, there isn't much of an incentive."

The Chair said, "I don't want to revisit the whole enclosure thing, but the reason they are worth \$60 to \$90 live, is because they are selling [the coyotes] to people with enclosures." He reiterated that the enclosure issue will be discussed in association with the citizen petitions received in the Division of Hearings, which will be considered separate from the instant rule process.

**SUBTOPIC**: License Fee Structure and Added Types of Licenses; Youth Licenses; Senior and Low Income Licenses; Lifetime Licenses

John Goss, representing the Indiana Wildlife Federation, which is made up of 52 conservation groups, commented regarding licenses and the impact on the Division of Fish and Wildlife and the Division of Law Enforcement budgets. He explained that the "whole system" of funding for fish and wildlife programs is "totally" user fee based, and the Division of Law Enforcement budget "consistently" has been from license fees and

from federal funds matching those license fees. Goss said that in the 1930s it was "wisely determined" to impose a "user fee" tax on outdoor equipment, which was expanded in the '50s and '60s. "Whenever we talk about federal funding...it's all from the people who are out there purchasing hunting, fishing, trapping, camping, hiking equipment" providing federal dollars and the state dollars come from the sale of licenses.

Goss noted that there were a number of suggestions concerning changes in licenses, such as bringing back the lifetime license. He noted that during his employment as former DNR director, license sales decreased. "We were really puzzled through the early 1990s. What we realized then was so many of the 'regular' hunters and fishermen were buying a lifetime license; and therefore, we were not seeing [the lifetime license holders] being counted." He noted that an aging population and less people in the field also contributed to the decrease in license sales. Goss explained that funds from the sale of lifetime licenses were deposited in a dedicated fund, and only 5% of this fund can be used for Fish and Wildlife's operating budget. "It's a restricted fund, which has about a \$17 million balance." He noted that a recent statutory changed has allowed the funds to be used for land acquisition.

Goss said that "lots of people" were upset by the resemding of the lifetime license. He said the lifetime license was a "very good" deal. He said if the lifetime license was again made available, the Indiana Wildlife Federation would support a license fee costing several thousands of dollars or three or four times the previous cost.

David Lupke asked how the lifetime license sales impact Indiana's allotment of federal funds.

Goss explained that ten federal dollars to one state dollar. "The little increases that we've gotten, for example the voluntary senior fishing license, if that brought in \$10,000 that meant \$100,000" federal government. He noted that the new youth apprentice license brought in \$100,000. "We just need to be really sensitive of \$1 change. If we did a \$1 change, we could be penalizing ourselves \$10."

Kari Evans asked, "This is based on a dollar match not a license activity match?"

Goss explained that some of the federal formulas are based per person.

Gregg McCollam, Assistant Director of the Division of Fish and Wildlife, explained that someone who purchases hunting or a fishing license is considered a certified hunter or angler. A person may purchase multiple licenses, but a person is only certified once. "Today, a certified hunter is worth \$22 in federal reimbursement, and a certified angler is worth \$11."

Cockrum commented that if a license fee is doubled, the federal reimbursement would not double. McCollam indicated that Cockrum's understanding was correct.

Goss said that the federal government is reviewing three proposals that would have a formula based on dollar amount. He said that on the "nongame side" Indiana is eligible to receive \$1.6 million. The state only has \$400,000 for match; however, other organizations, such as Purdue University, have been able to garner funding from the federal nongame research project. "We could be bringing that to DNR if we could match." He said a statutory change was made so that DNR now has the flexibility to use license money to match nongame projects, some of which overlap "a lot" with habitat improvements.

Goss said the second proposal is a new \$30 million program that will require a 20% state match. "If we want to take advantage of the increase above the current formulas in this year's proposed budget for U.S. Fish and Wildlife Service money that is available, we are going to need to find additional match dollars." He said the third proposal is within the "Climate Bill," the Cap and Trade Program of which over 900 hunting, fishing, sporting groups across the country have endorsed this proposal, because it includes dedicated funding for fish and wildlife. "Indiana's share on the formula in the bill as it passed out of committee a couple weeks ago would be about \$3.5 million...and it does have dollar required match." Goss said, "We are going to have to be scrambling for state dollars in order to take advantage of a huge increase. This would be a 30% to 35% increase potentially in federal funding."

Goss summarized, "What we really need to be talking about are very creative ways to gradually move up any licenses that we can. I would like to suggest that we look at combination licenses...so that people are actually buying more licenses to save some money...and that we are consciously trying to figure out how are we going to create another up to \$1 million in state matching funds so that we are ready to take advantage. This is money available within the year."

Richard Cockrum suggested that with the proliferation of online and point of sale license purchases whether a "check off" box could be added to allow purchasers to contribute "x" amount of dollars. "I don't think it's beyond reasonable thought at all that someone would check \$2, \$3, \$5, or \$10". Goss said, "That's a good idea."

John Davis said that the Department is reviewing opportunities for donations when persons are purchasing a license online or from a vendor, renting a room in one of the inns, or when contributing through the Foundation. Regarding the lifetime license issue, Davis said, "It's a bad bet for us to predict a cost for the rest of your life whoever you are." Davis said that the Department "wants all the suggestions that we can have things like the apprentice license." He noted that Indiana has "bucked the trend nationally. Our license sales are up, and we think it is because we continue to look for innovative ways and that means we don't want to stop looking for innovative ways to get people involved and encourage youth." Davis said the nonresident youth license was amended to encourage a parent or adult to bring a youth into Indiana to hunt so it is not cost prohibitive.

Goss said, "I just want to caution about any of the comments that we need to roll things back. I think our organization would say, 'Please don't roll anything back; lets roll forward'."

Kari Evans noted that there were a lot of suggestions about creating combination licenses, some went beyond that to make the licenses lifetime, and other suggestions requested that in any given year a person would be allowed to purchase any of the licenses all at one time. "Would that have any sort of an impact on the funding formula for the federal match? Maybe that makes it, first of all, more efficient not only for the hunter, but potentially for the agency... That's a way to get some guaranteed revenue." John Davis said, "I think it is a very good idea. We would like to have the maximum amount of freedom. Unfortunately, the way the code is set up now every time we do a license we are in a little bit of a fix."

McCollam said the Department has been discussing license bundles and multi-year licenses, and have presented these ideas to the Fish and Wildlife Conservation Committee. He noted, however, that the federal government was concerned about allowing Indiana to bundle licenses and charge less for a license. "In other words, [the federal government] was not so sure [it] wanted to certify a hunter if [that hunter] bought something that was less than what the certified hunters were paying." In April 2009, the federal government allowed license bundling with cost discount, and agreed the purchaser would be certified. McCollam said that the Department thinks that it can bundle licenses without going to the Legislature to ask for a new category of license. "We are basically saying you can buy a deer license, a turkey license, and a game bird stamp and pay a certain amount. We are not creating something that isn't those licenses themselves." He said multiple year licenses are still being reviewed. McCollam said that perhaps by July 2010 a bundle license would be made available.

Freeman asked, "Is that your sole goal in your approach is to try to provide a discounted fee to maybe generate some more revenue? I think there is a convenience factor...that's an intangible".

The Chair said a predominant suggestion was to allow for purchase an annual license that covers all hunting and fishing activity. "Can that be done?" McCollam answered in the affirmative. He said the Department is reviewing a "hunt-fish-turkey-game bird" license, and he noted that Wisconsin has a license that is "pretty much *carte blanche*; it's a conservationist license." McCollam said the Department would "start out small" in regards to bundling licenses, but as requests for other bundles are received, the Department would expand the bundle license.

Travis Lucas expressed concern regarding multi-year licenses. "I have a great deal of difficulty explaining to judicial officers the importance of fish and wildlife laws to begin with. I would express some concern from my perspective of a multi-year license, like you talked about a 3-year license for fishing, because when a person is one year out of compliance, and they come into court and say, "Gosh, you know, I was confused and I really thought it went to the end of the year," I will just tell you that prosecutors will have

an extremely difficult time enforcing. If you are two or three years out, I think I can get the judge to understand, but if you are just a year out, I just foresee that being difficult from a law enforcement perspective."

David Lupke said that the convenience "issue is key. It's more important than the money savings...I assume most people are like me. We think we are going to do a lot more during the year than we actually accomplish. If you are excited about the hunting season that's not going to start for six months, but you go ahead and buy your license because you are anticipating that you are going to have the time to do it, it would be nothing but a great thing." He also commented that the Department may be "missing the boat" regarding informing the public regarding recreational opportunities, available licenses, and the relation to state and federal funding.

Freeman asked whether the cost of a lifetime license could be based on age categories such as an actuarial gradation. He asked whether lifetime licenses holders were counted as a certified hunter or angler each year. McCollam answered in the affirmative.

Jack Hyden commented that Indiana license fees are a "bargain" compared to other states.

John Davis noted that the Department's point of sale has been online for more than four years. He said that data from the online sales is being "mined" to understand the types of recreational activities going on in Indiana. "In fishing, we found some surprises. We thought there were probably 80% of the people that bought a license all the time, and then another 20% that sometimes didn't. We found it was the opposite. In fact, 20% of the people buy a license every year and 80% buy one and then skip a year".

John Goss noted that "if we fully explain what the money is going for, and it's going for good dedicated uses" the Legislature "can, in fact, vote for fee increases". He noted that the Commission has the authority to approve license fee increases. Goss concluded, "On behalf of my groups, we certainly would like to be advocates for continually, reasonably and gradually, improving our state revenue so that we can max out on the federal level."

Davis explained that the Legislature "set a floor" for the existing license fees in the Indiana Code. He said the statutes were amended to include a sentence that gave authority to the Commission to raise license fees in the majority of licenses. Davis said fees for approximately 30 licenses, mostly commercial, are still set by statute, which have not been amended since 1960s. He said the Department would like to have the statutes amended in order to give the Commission authority to set fees for these licenses.

#### SUBTOPIC: Squirrel Extended Season; Squirrel Change of Season

The Chair noted that there is "quite a bit" of support for extending squirrel season. He noted that there are "not a lot" of hunting opportunities in February.

Mitch Marcus, Wildlife Research Supervisor and Staff Specialist with the Division of Fish and Wildlife, explained that there are biological reasons supporting the current squirrel season, and the season should not be extended through into February. He said that research has shown that squirrels have two major breeding seasons, one in December and January. "Hunters would be essentially taking female squirrels that are still raising young." He noted that hunting seasons are not established during time wildlife are caring for young.

Bill Freeman noted that one suggestion requested a delay of the beginning of squirrel season.

Marcus noted that the Department has not collected data in relation to an earlier squirrel season. "We would have to look into that."

The Chair noted that some suggestions received opined that squirrel season began "too early" and should start later than August 15.

Jack Hyden said that members of the Beagler's Alliance have observed that female squirrels are "pregnant and lactating" in August. He noted, however, "We are aware there is no shortage of squirrel, so we are not sure that the August season is actually detrimental. Usually the early seasons really don't affect the overall population as much as the late seasons do, because by February and late February the animals that have made it to that point...they are now the breeding stalk for the season. Those are very important to keep."

Bill Herring noted that the majority of squirrels he has taken in the last 55 years have not been lactating females. He noted that there are fewer squirrel hunters, and the August 15 season is "not a problem".

Wayne Bivans explained that a few years ago squirrel season was extended by one month ending January 31. He said Indiana was divided into two regions for squirrel season. The two regions were combined to establish one squirrel season for entire state.

Jeff Morgan, with the Tree Dog Alliance, commented that neighboring states have extended squirrel season through February. "I assume they do not have problems with their population of squirrels."

#### **SUBTOPIC:** Exotic Mammals

The Chair said that one suggestion was received regarding feral hogs. He asked that Col. Mike Crider provide information regarding Indiana's population of feral hogs.

Crider said that releases of domesticated pigs have occurred in Indiana. "We've got a pretty good population in the south central region," and the population is spreading to other areas in the state. He said the Department encourages the taking of feral hogs, which are not protected species. Crider said that the Division of Fish and Wildlife have

received requests for importation of feral hogs for hunting enclosures. He said the Department is formatting public education outreach for landowners and hunters to encourage species management.

Travis Lucas asked whether feral hogs cause environmental damage and whether they are aggressive to humans or livestock.

Crider indicated that he was not aware of aggressiveness to humans. "I guess they could be, but they are extremely disruptive" to ground nesting birds and habitat destruction. He noted that the Board of Animal Health and other groups are concerned with the spread of disease. "There are a whole myriad of reasons why we don't these [feral pigs] to exist in the state."

David Lupke said that it is "well documented" that feral domestic pigs cause "tremendous" environmental damage. He noted that some states have "made a point" to release the large German boars that are "a much larger pig and are much more destructive and a potential threat to people".

John Bassemier asked whether feral pigs have any natural predators.

Crider said that a coyote could take piglets. He said the feral pig seems to be "pretty intelligent...The litters seem to be pretty robust".

Jim Trachtman inquired whether the domesticated pigs were released illegally. Crider answered in the affirmative.

#### **SUBTOPIC:** Hunter Education

The Chair noted that the suggestions received regarding hunter education were "all over the board". He asked Crider to provide an overview of the hunter education program.

Crider said that persons born after December 31, 1986 are required to go through the Hunter Education Course in order to be licensed. He said that in the 1970s Indiana was averaging 30 deaths a year associated with hunting accidents. The numbers have dropped "significantly" due to the "extremely successful" education program, which is supported by 900 volunteers. "If we can, we try to keep in the school system." The Department certifies 17,000 to 20,000 students per year. Crider explained that those 12 years of age or older can take the Hunter Education Course online. He said the online version is "challenging". Crider said, "We feel that the format we have now, particularly with passing the apprentice license program...is just about where we need to be".

Crider noted that hunting accidents still occur on occasion. He said some states require mandatory hunter education for all hunters since the late 1940s. Crider said that Indiana's Hunter Education program combined with "good" adult supervision, the Department has reduced hunting accidents to the level "where it's not going to get a lot

better". He noted that "most" of the approximately 15 or 16 "firearm type" incidents per year are self-inflicted. "Most of our problems are people falling out of trees".

Crider said he administrated the Hunter Education program for eight years. "I really don't see a whole lot that needs to be changed". Crider said the online course takes approximately six to seven hours to complete, and the classroom course is a mandatory ten hours.

Bill Freeman asked whether the courses take into consideration youth attention spans.

Crider said that the Department has "tried to make sure" that Indiana maintains an amount of content, actual instructive content, which would guarantee the acceptance of Indiana's hunter education certification in other states. "Basically, there are national standards that are set. Typically, the 10-hour window allows for the administrative time of registering students, allowing for lunch period, allowing for some breaks, and allowing time for the test at the end of the program." He said the online course is basically the digest of the material with a test at the end. Crider said that the online program was designed "so that it is also a good source for just basic safety information." The cost to be certified through the online course is \$15. Crider said that the Division of Law Enforcement has developed "field days" that can be used in conjunction with the online course. He explained that the list of courses offered in classroom style is "constantly" changing making it infeasible to publish in the Hunting Guide, but the list is posted on the Department's Internet site.

Crider said that Capt. David Windsor with the Division of Law Enforcement currently administers the Hunter Education Program. Crider said that the Department can demonstrate from "any review that [Indiana] is at least in the top two or three states in the Nation with what we do."

#### SUBTOPIC: Cotton Tail Rabbits.

The Chair said the suggestions received primarily relate to "what seems to be a scarcity in early season hunting". Suggestions were made to get rid of the early season and other suggestions proposed extending the season. The Chair asked whether there was a biological reason for the decrease in cotton tail rabbit population

Wayne Bivans said that the Division of Fish and Wildlife has been conducting research regarding the rabbit population for one year. "We thought we would do another year of trying to find out if there is any kind of problems that time of year, if the season can be opened state-wide, or there are lactating females. We are not really sure and we are presently looking into it."

AmyMarie Travis Lucas asked whether there was historical data available for comparison. Bivans answered that he was not aware of data from Indiana.

Jack Hyden said he contacted "DNR" small game biologists across the country. He said that not all states responded, "but of those that did, and including Indiana, not one of [the small game biologists] felt as though an October season had a negative impact on rabbit populations overall from year to year, basically because the ground cover is thicker, the actual harvest is very small, and the majority of the reproduction is done by the end of September."

Hyden said he received a copy of *The Population, Ecology, and Harvest of the Cotton Tail Rabbit on the Pigeon River Fish and Wildlife Area, 1962 to 1970* by Herald A. Demaree (Pittman-Robertson bulletin). He noted that the study reflected that in 1967 through 1969 the average rabbit harvest on the fish and wildlife area was 560 per year. Hyden said staff from the Pigeon River Fish and Wildlife Area reported that last year's rabbit harvest was 527. Hyden concluded, "We have tremendously fewer rabbit hunters, but we've only got less than 40 rabbits difference in the harvest. Thave a difficult time seeing how that could possible pose lower hunter satisfaction." He said that possibly the Department's conclusion, after completing its research, will be that the October rabbit season "isn't hurting anything at all".

Jeff Morgan noted that the disappearance of rabbit habitat is one of the "biggest issues."

#### SUBTOPIC: Miscellaneous Suggestions

The Chair noted that the suggestions listed under the "Miscellaneous Subtopic" could not be grouped. He suggested that Advisory Council members review the suggestions. "I think some of them are issues related to other things that we have talked about or will be talking about. So, I don't know that it merits going into at this point in time."

The Chair opened the floor for further comment. Hearing none, the Chair adjourned the meeting.

#### Adjournment

The meeting adjourned at 12:54 p.m., EDT.